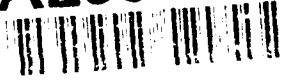


United States General Accounting Office

GAO

Report to the Chairman, Committee on  
Government Operations, House of  
Representatives

AD-A253 454



May 1992

# MULTIPLE AWARD SCHEDULE PURCHASES

## Improvements Needed Regarding Publicizing Agencies' Orders



92-20934



National Security and  
International Affairs Division

B-247051

May 12, 1992

The Honorable John Conyers, Jr.  
Chairman, Committee on Government Operations  
House of Representatives

Dear Mr. Chairman:

In response to your request, we evaluated a random sample of 101 Multiple Award Schedule (MAS) orders exceeding \$25,000 for federal information processing resources<sup>1</sup> at six selected procurement offices. The procurement offices are: the National Aeronautics and Space Administration's Langley Research Center, the Department of Health and Human Services' National Institutes of Health (NIH), the Department of the Treasury's Internal Revenue Service (IRS), the Army's Training and Doctrine Command, the Navy's Norfolk Naval Supply Center, and the Department of Defense's Defense Supply Service-Washington.

Our objectives were to determine whether these procurement offices complied with statutory and regulatory requirements to (1) publish preaward synopsis notices in the Commerce Business Daily (CBD),<sup>2</sup> (2) describe the federal information processing requirements in the synopsis notices in terms that are not unnecessarily restrictive of competition, and (3) document the results of the synopsis notices and an analysis indicating that the procurement resulted in the lowest overall cost alternative meeting the needs of the government. In addition, we evaluated the extent to which CBD notices generated responses from suppliers and the effect of agencies' anticipated administrative costs of buying in the commercial open market on their decisions regarding whether to fulfill proposed MAS requirements through open-market acquisitions rather than MAS orders.<sup>3</sup> We will provide the results of the work you requested on other MAS issues in a separate report.

<sup>1</sup>Such resources, commonly referred to as "FIP resources," are defined as automated data processing and telecommunications resources that are subject to the General Services Administration's exclusive procurement authority.

<sup>2</sup>The CBD is published each weekday, except holidays, by the Department of Commerce. It provides industry with notice concerning current government contracting and subcontracting opportunities.

<sup>3</sup>Federal agencies generally conduct open-market acquisitions valued at over \$25,000 by issuing solicitations and following other requirements for awarding contracts. (See Federal Acquisition Regulation parts 6, 14, and 15.) Among other things, solicitations describe the desired functional, performance, or design specifications of the agency's needs. Solicitations are distributed to vendors that express an interest in doing business with the government.

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## Results in Brief

For most of the MAS orders exceeding \$50,000, the procurement offices satisfied the regulatory requirement to synopsise in the CBD. However, most of the orders exceeding \$25,000, but not \$50,000, were not synopsized because regulations do not require it. The regulatory threshold requirement for synopsizing orders is not consistent with the statutory requirement of \$25,000.

Of the 36 synopsized procurements we reviewed, the procurement offices frequently used product descriptions in the CBD notices that were unnecessarily restrictive of competition. That is, for 13 procurements (36 percent), the notices cited specific make and model products and did not describe the essential characteristics of the agencies' federal information processing requirements so that suppliers of other products would know what would be acceptable to the agencies; and the contract files did not have justifications for limiting competition. The CBD notices for another 14 synopsized procurements (39 percent) similarly cited specific make and model products and did not describe the essential characteristics of the agencies' needs, but the contract files had justifications for limiting competition, as required. Notices for the remaining nine procurements (25 percent) described the essential characteristics of the agencies' needs.

The synopsis notices usually generated few or no responses from suppliers of federal information processing resources. For 24 (or two-thirds) of the 36 notices, the agencies received either no responses or only a response from the MAS contractor identified in the notice with information about the cited products. It may not be so surprising that two-thirds of the CBD notices we reviewed generated no additional responses, considering that most of the notices were limited to one manufacturer's products and did not make information available on the characteristics of the products that were essential to meet the agencies' needs.

For the remaining 12 notices, the agencies received responses offering price quotes, but in half of these cases, the responses were only for the specific makes and models identified. With one exception, the MAS contractor identified in the notice always received the order, and in all 36 cases, the specific make and model products cited in the notices were ordered. In addition, agencies sometimes did not document the results of synopses or their analyses of responses relating to selection decisions. (See app. II.)

In response to the CBD notices, the agencies received open-market price offerings that were lower than the proposed MAS prices in six cases. However, agencies did not issue solicitations in any of these cases, usually because of the relatively high administrative costs to the government of trying to acquire the items in the open market. Industry representatives said that the government should streamline its procurement processes, including the requirements for synopsisizing MAS procurements, to reduce such costs.

## Background

The MAS program is designed to enable federal agencies to procure a wide range of commercial goods and services—including federal information processing resources—in an efficient manner. The General Services Administration's (GSA) Information Resources Management Service (IRMS) negotiates and awards MAS contracts to multiple suppliers of similar federal information processing items and publishes the contract award information in IRMS schedules.<sup>4</sup> Under certain conditions, agencies are permitted to use these schedules to place orders under the IRMS contracts directly with the MAS suppliers.

In fiscal year 1990, the IRMS schedules program included over 900 contracts and accounted for \$2.1 billion in agency orders. IRMS officials did not have data available on the number and dollar value of IRMS MAS orders above and below \$25,000. However, according to GSA, 3 percent of all MAS orders (both Federal Supply Service and IRMS orders) in fiscal year 1990 were over \$25,000, and these orders accounted for approximately 50 percent of the total dollar value of MAS orders placed.

The Competition in Contracting Act of 1984 (title VII of division B of P.L. 98-369) requires federal agencies' contract awards, in general, to be based on "full and open competition," also referred to as "competitive procedures." This requirement means that all responsible sources, basically those sources capable of meeting the government's needs, are allowed to compete equally with others for the government's business. The act specifically provides for the use of MAS as a competitive procedure if MAS contracts and orders result in the lowest overall cost alternative

<sup>4</sup>Another GSA organization, the Federal Supply Service, negotiates and awards MAS contracts for other types of commercial products and services.

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meeting the needs of the government. Use of other than full and open competition is required to be justified, certified, and approved in writing.<sup>5</sup>

As amended by various legislation enacted from 1982 to 1984, the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) and the Small Business Act (15 U.S.C. 637(e)) require agencies to (1) publicize in the CBD, at least 30 days before award, notices of proposed orders expected to exceed \$25,000<sup>6</sup> under basic ordering agreements or similar arrangements (such as IRMS contracts); (2) describe their requirements in the notices in terms that do not unnecessarily restrict competition; and (3) state in the notices the reason justifying any purchase not based on competitive procedures.

The Federal Acquisition Regulation (FAR) refers acquisition personnel to the Federal Information Resources Management Regulation (FIRMR) for special procurement policies and procedures applicable to federal information processing resources.<sup>7</sup> According to GSA officials, FIRMR provides regulatory requirements for all IRMS MAS procurements, and FAR applies only to such procurements when specifically cited in FIRMR. FIRMR 201-3.102, which describes FIRMR's relationship to FAR, states that FIRMR relies on FAR for general policies and procedures to be used and that "the policies and procedures of part 201-39 (Acquisition of Federal Information Processing Resources by Contracting) are in addition to, not in lieu of, the FAR policies and procedures, except when the FIRMR specifically requires its policies and procedures, and not those of the FAR, to be followed."

FAR states that the primary purposes of the CBD notices are to improve small businesses' access to acquisition information and enhance competition. FIRMR requires that procurement offices publicize (synthesize) in CBD their intent to place orders exceeding \$50,000 against IRMS schedule contracts, in accordance with certain FAR and FIRMR provisions. These provisions require that (1) agencies justify any restrictive requirements prior to publishing CBD notices; (2) the synopsis notices be published in CBD at least 15 days before placing the orders; and (3) procurement offices consider all responses to a CBD notice from

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<sup>5</sup>Subpart 6.3 of the Federal Acquisition Regulation states the requirements for the justifications.

<sup>6</sup>The dollar threshold for publicizing such notices in CBD was raised from \$10,000 to \$25,000 in 1986 by Public Law 99-500.

<sup>7</sup>FIRMR was revised, among other things, to be consistent with the FAR format, effective April 29, 1991.

responsible sources, including commercial open-market offerings from any responsible contractor—regardless of whether the contractor has an IRMS MAS contract. FIRMR states that when commercial offerings, instead of the IRMS contract prices, would provide the lowest overall cost to the government, agencies may issue solicitations to vendors in the commercial open market.

FIRMR requires purchase descriptions limited to specific make and model products to be justified and approved as other than full and open competition, in accordance with FAR 6.3. A specific make and model purchase description is one that is so restrictive that only a particular manufacturer's product will satisfy the government's needs, regardless of the number of suppliers that may be able to furnish that manufacturer's product. FIRMR, however, does not require an agency to have a justification in accordance with FAR 6.3 for an IRMS MAS order if (1) the requirements documentation prepared by the technical and requirements personnel describes the requirements with other than a specific make and model specification and (2) the procedures regarding use of IRMS schedule contracts are followed (for example, the order results in the lowest overall cost alternative meeting the needs of the government).

FIRMR also requires procurement offices to document in the contract file (1) the results of each synopsis and (2) an analysis indicating that an order placed against an IRMS contract results in the lowest overall cost alternative meeting the government's needs.

## Agencies Generally Complied With FIRMR but Not With Statutory Requirements for Synopses

Although the agencies generally complied with the FIRMR requirement to place notices in CBD regarding proposed IRMS schedule orders expected to exceed \$50,000, they generally did not synopsize orders with expected values of \$25,001 to \$50,000, as required by statute. Of the 101 sample orders valued at more than \$25,000, 36 (36 percent) had synopses published in CBD prior to award. (See table I.1, app. I, for sample results by procurement office.)<sup>8</sup>

- Twenty-five (78 percent) of the 32 procurements exceeding \$50,000 were synopsized; 2 others appeared to have legitimate exemptions from the synopsis requirement due to "urgency" reasons related to Operation

<sup>8</sup>The sample results shown in this report are not statistical estimates projected to the population.

Desert Shield; and the remaining 5 orders should have been, but were not, synopsized.<sup>9</sup>

- Fifty-eight (84 percent) of the 69 procurements valued between \$25,001 and \$50,000 were not synopsized. Three of the six offices we reviewed synopsized some orders valued at less than \$50,000 because they wanted to survey the market. However, most federal information processing requirements expected to be under \$50,000 were not synopsized because FIRM does not require it.

After the 1982-84 legislation was enacted, GSA, in 1985, promulgated a regulation that continued an earlier publication threshold of \$50,000 for orders placed against IRMS schedule contracts. However, in 1989 we concluded that GSA did not have the legal authority to establish a synopsis level higher than the statutory \$25,000 threshold, except on a case-by-case basis. (See B-158766.16, dated Aug. 14, 1989.)

GSA believes that its determination to raise the synopsis threshold was "proper and legal" based on its interpretation of the specific statutes involved. GSA emphasized that it consulted with both the Small Business Administration and the Office of Federal Procurement Policy, as required by statute, and that they concurred that the \$50,000 threshold was "appropriate and reasonable." In July 1990, GSA asked the Department of Justice for an opinion concerning the authority of the Administrator of General Services to waive or revise the statutory threshold for publication of notices in the CBD regarding MAS orders for federal information processing items. The Department of Justice has not yet provided its opinion.

Notices for 35 of the 36 synopsized purchases were published in the CBD at least 15 days before the delivery order was placed, as required by FIRM. In the one exception, the order was placed under the IRMS contract 14 days after publication in the CBD, and "urgency" because of Operation Desert Shield was cited as the reason. We believe that the statutory and FAR requirement to allow a 30-day response time after publication of the CBD

<sup>9</sup>Reasons given by agency officials for not complying with the requirement to publish notices in these five cases were as follows: the draft notice was electronically transmitted to the CBD, but never accepted and published; the procurement office was not aware that the purchase was never synopsized; the procurement office relied on the requisitioner's market survey instead of a synopsis; the procurement office did not see any need to synopsize a proposed federal information processing lease after the first year when lack of alternate sources was established; and the procurement office mistakenly did not synopsize.

notice is applicable to MAS orders under IRMS contracts and that GSA lacks authority to promulgate a response time other than 30 days for these orders except on a case-by-case basis. GSA and the agencies we reviewed believe that a 15-day response time is reasonable for these procurements, given the MAS program's intent to provide commercially available items in an efficient and simplified manner. We did not evaluate the reasonableness of the 15-day requirement. However, unless and until the statutory 30-day requirement is changed, GSA is responsible for complying with it.

## Product Descriptions Restricted Competition

Procurement offices' CBD notices for the proposed IRMS orders were often unnecessarily restrictive of competition. Based on procurement statutes, FAR (and FIRM by reference to FAR 5.207) requires that notices of proposed procurements include a clear description of the supplies or services to be contracted for that is not unnecessarily restrictive of competition. Citing the product of a single manufacturer in the CBD notice, for example, and not (1) making information available on the characteristics of the product essential to meet the agency's need or (2) justifying the need for that particular product in accordance with FAR 6.3 would be unnecessarily restrictive of competition. FIRM also requires that for proposed orders under IRMS schedule contracts, agencies identify in the CBD notice (1) the specific IRMS contract intended to be used and (2) if applicable, the specific make and model of any federal information processing equipment to be ordered or maintained.

Each of the 36 synopsis notices described the government's requirement for federal information processing resources in terms of a particular product or products of one manufacturer. Twenty-seven (75 percent) of the 36 CBD notices did not describe the essential characteristics (also referred to as the "salients") of the agency's federal information processing requirements so that suppliers of other manufacturers' products would know what would be acceptable to the agency. (See table I.2, app. I.)

In some cases, suppliers of "clone" products (functionally identical products specifically intended to emulate or copy the particular product described in the notice) may be able to satisfy requests for specific manufacturers' products. However, the notices in these 27 cases did not provide the information that would be needed to determine whether other functionally equivalent federal information processing resources could satisfy the agency's requirement. In the absence of a justification for other than full and open competition, limiting the CBD description of an agency's



requirement so that only suppliers of one manufacturer's products can meet the government's needs is generally unnecessarily restrictive of competition. Even if clones are also available and acceptable to the agency, the notice would still be unnecessarily restrictive because the essential characteristics of the agency's requirement are not disclosed.

For 13 of these 27 notices, the contract file documentation did not provide justifications for other than full and open competition describing, for example, why no other manufacturers' products would satisfy the agency's needs.<sup>10</sup> (See table I.2, app. I.) For these 13 purchases, the synopsis notices did not comply with procurement statutes and FAR and were unnecessarily restrictive of competition. (See app. II for details.) In addition, 12 of the other 14 notices did not cite the applicable reason (that is, the exception in FAR 6.3 justifying use of other than full and open competition), as required, even though the contract file documentation provided a justification for other than full and open competition.<sup>11</sup>

Appendix II describes a CBD notice that was unnecessarily restrictive of competition because full and open competition was required, but the notice identified the agency's needs in terms of a specific make and model and did not provide the salients.

## Responses to Notices Were Limited

Most of the 36 synopsis notices generated few or no responses from suppliers. When contractors did respond to the notices, they generally offered non-schedule prices for the specific products described in the notices. In all 36 cases, the procurement offices purchased the manufacturer's product or products identified in the notice and in only one of these cases did the order go to a supplier other than the one identified.

Twenty-four (67 percent) of the notices generated either no responses or only a response from the MAS contractor identified in the notice. In these cases, the MAS contractors provided pricing data or other information relating to the specific make and model products and IRMS contracts identified in the notice. For the remaining 12 notices that generated other

<sup>10</sup>In 1 of these 13 cases, although the CBD notice was unnecessarily restrictive, FIRMR provisions exempted the agency from providing a justification for other than full and open competition because the requirements documentation described the essential characteristics needed to satisfy the agency's requirement.

<sup>11</sup>Because of time constraints on our review, we did not assess the validity of the 14 justifications for other than full and open competition that were included in the contract file documentation for these procurements.

responses, the procurement offices received 1 response with pricing information in 4 cases and more than 1 response with pricing information in the other 8 cases. (See table I.3, app. I.)

Regarding the types of responses received, 6 of the 12 notices generated responses from suppliers providing only pricing information for the specific make and model products identified in the notices. In another four cases, suppliers responded with pricing information for both the specific make and model and other manufacturers' products. In the remaining two cases, suppliers responded with pricing information only for other manufacturers' products. Suppliers of federal information processing resources responded to 11 of the 12 notices with 1 or more open-market prices. The procurement offices received a total of 55 responses (price offerings) to the 12 notices, including 18 responses to 1 notice.

## Administrative Costs Deterred Issuance of Open-Market Solicitations

In 6 of the 12 cases with responses to the CBD notices, suppliers offered commercial open-market prices for federal information processing items that were lower than the IRMS contract order prices, and there was no evidence in the contract files that these responses were technically unacceptable. In one case, the agency justified purchasing the federal information processing items from the higher-priced schedule contractor because of "unusual and compelling urgency" due to Operation Desert Shield. In the other five cases (four IRS procurements and one NIH procurement), suppliers offering either lower open-market prices for MAS items or lower-priced, non-schedule items were rejected on the basis of the time or costs associated with preparing and processing a solicitation and conducting an open-market acquisition.<sup>12</sup>

FIRMR permits agencies to order against an IRMS contract, rather than issue a solicitation, when the contracting officer determines that placing a MAS order would result in the lowest overall cost.<sup>13</sup> FIRMR requires an agency to

<sup>12</sup>The lowest-priced, apparently technically acceptable offerings rejected in the four IRS procurements were: (1) \$10,080 below the \$82,180 MAS order price, (2) \$9,703 below the \$63,076 order price, (3) \$7,734 below the \$75,411 order price, and (4) \$3,945 below the \$86,154 order price. In the NIH procurement, the lowest-priced, apparently technically acceptable offering was \$3,326 below the \$58,326 order price.

<sup>13</sup>Because we did not review open-market purchases of federal information processing items, we did not determine how often analyses of responses to CBD notices for proposed MAS procurements resulted in procurement offices issuing solicitations and making awards to non-schedule contractors. Officials who addressed this issue at the procurement offices we reviewed said such solicitations were not issued often.

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identify and quantify the costs involved in processing an open-market acquisition to support its determination of the lowest overall cost.

Contract file documentation for synopsis procurements at the IRS showed that this office applied a \$14,500 administrative cost factor to the prices quoted in the open-market responses to CBD notices for federal information processing items to recognize the marginal cost of issuing a solicitation over the cost of purchasing from the IRMS schedule contract.<sup>14</sup> In the four IRS purchases, this administrative cost factor made the open-market offerings higher than the IRMS schedule contract prices. IRS procurement officials said that the \$14,500 factor is a realistic estimate derived from analysis of the IRS acquisition process, the various organizations involved, the time spent by personnel in processing an open-market acquisition, and overhead.

Contract file documentation in the one NIH case did not have a quantified cost factor, but did include the statement that the reason for rejecting the lower-priced non-schedule response was the cost of "writing a contract." A Defense Supply Service-Washington official said that for several years the procurement office had been using an estimate for the cost of issuing a solicitation and conducting an open-market acquisition; however, within the past year the office developed a formula to calculate the baseline costs for a solicitation, which the contracting officers are to use in determining whether to place a schedule order or issue a solicitation. According to this official, the minimum cost for processing a solicitation is about \$10,000. Officials at the other four offices besides IRS and the Defense Supply Service-Washington said they had not developed a standard estimate of the time and administrative costs of preparing solicitations and processing open-market acquisitions, but they did consider these factors when making decisions to use the schedules.

GSA officials said that the \$14,500 administrative cost factor IRS applied did not seem unreasonable. GSA published an interim regulation in 1978 that estimated the average time and administrative cost of conducting an open-market procurement of federal information processing items in the dollar range of the relevant IRMS orders (between \$50,000 and \$300,000) to be about 6 months and \$12,000. However, neither GSA, FIRMR, nor FAR provide guidance to procurement offices on how to (1) calculate the time and administrative cost of processing solicitations and (2) use this information to determine whether an open-market procurement or IRMS

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<sup>14</sup>In one case, the administrative cost factor applied was \$12,500.

schedule purchase is the lowest overall cost alternative to satisfy the agency's federal information processing requirement.

A Defense Supply Service-Washington official told us that the savings of conducting an open-market acquisition begin to significantly offset the higher processing costs for procurements of federal information processing items around the \$90,000 to \$100,000 range. Procurement officials at the various agencies we reviewed told us that it is simply too time-consuming and costly in most cases to issue a solicitation when an order can be placed with a MAS contractor instead.

Federal information processing industry representatives we contacted told us that the government should streamline its procurement processes, including requirements for synopsisizing MAS procurements, so that lower-priced open-market offerings would be more apt to be considered for award. For example, one representative suggested that a basic requests for proposal could be sent to suppliers, incorporating the GSA schedule terms and conditions for like items. GSA officials stated that accomplishing significant streamlining would require statutory changes because many aspects of procurement that add time and cost to the process are based on statutory requirements; they added that other aspects protect essential government and vendor rights.

## Recommendations

We recommend that the Administrator of General Services revise FIRM to include the following requirements and guidance:

- Require, consistent with statutory requirements and FAR, that federal agencies synopsisize in the CBD proposed orders exceeding \$25,000 against IRMS schedule contracts at least 30 days before order placement, unless and until statutory authority for a higher dollar threshold, shorter time frame, or both is obtained.
- Require procurement offices to supplement, in the CBD synopsis notices for proposed IRMS schedule orders not required to be justified based on FAR 6.3, any reference to the specific make and model intended to be ordered or maintained with (1) the words "or equal" or the equivalent and (2) a listing or description of the essential characteristics of the agency's federal information processing requirement, so that potential sources offering other manufacturers' products can determine what would be acceptable to the government. However, if the government has determined that its federal information processing requirement can be satisfied only by the make and model product identified in the notice, then instead, the notice

should be required to indicate the reason justifying the use of other than full and open competition.

- Provide procurement offices with guidance on how to (1) identify and quantify the costs associated with developing solicitations and fulfilling proposed IRMS schedule requirements through the open market, (2) use this information in evaluating responses to CBD notices relating to such orders, and (3) document in procurement files the results of the CBD notice and an analysis indicating selection of the lowest overall cost alternative meeting the agency's needs.

We also recommend that the Administrator of General Services take action to ensure that the heads of major procurement agencies enforce compliance by their procurement offices with existing FAR and FIRM requirements that (1) CBD notices of intent to order against IRMS schedule contracts include product descriptions that are not unnecessarily restrictive of competition; (2) procurements based on CBD notices of intent to order against IRMS schedule contracts, if limited to specific make and model products, be justified, certified, and approved in accordance with FAR 6.3; and (3) contract file documentation include the results of the CBD synopsis and an analysis showing that the lowest overall cost alternative to satisfy the agency's needs was selected.

## Matters for Congressional Consideration

The Congress may wish to consider directing the Administrator of General Services, in consultation with the Administrator for Federal Procurement Policy and those responsible for the procurement policy in other major procurement agencies, such as the Department of Defense and the National Aeronautics and Space Administration, to take the following actions:

- Develop a legislative proposal for streamlining the existing solicitation, selection, and related requirements and processes pertaining to agencies' proposed procurements under IRMS schedule contracts for which lower open-market price offerings are received. The proposal should be designed to (1) minimize agencies' administrative costs associated with such open-market acquisitions and (2) better enable agencies to satisfy their needs at the lowest overall cost.
- Address, as part of that proposal, (1) the appropriate dollar threshold for synopsizing in the CBD proposed orders against IRMS schedule contracts and (2) the appropriate minimum time that should be given to suppliers to respond to such synopses.

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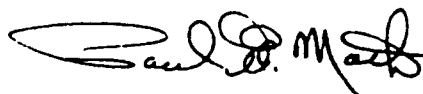
We conducted our review from November 1990 to November 1991 in accordance with generally accepted government auditing standards. Appendix III discusses the scope and methodology of this review.

As requested, we did not obtain agency comments on this report. However, in January and February 1992, we discussed our findings with program officials at each of the procurement offices and agencies reviewed and have included their views where appropriate.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time, we will send copies to congressional committees; the Secretaries of Defense, the Treasury, and Health and Human Services; and the Administrators of the General Services Administration, the National Aeronautics and Space Administration, and the Office of Federal Procurement Policy. We will also make copies available to others on request.

Please contact me at (202) 275-8400 if you or your staff have any questions concerning this report. Other major contributors to this report are listed in appendix IV.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Paul F. Math". The signature is stylized with a large, sweeping initial "P" and a distinct "M".

Paul F. Math  
Director, Research, Development,  
Acquisition, and Procurement Issues

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## Abbreviations

<u>CBD</u>	<u>Commerce Business Daily</u>
<u>FAR</u>	<u>Federal Acquisition Regulation</u>
<u>FIRMR</u>	<u>Federal Information Resources Management Regulation</u>
<u>GSA</u>	<u>General Services Administration</u>
<u>GTSI</u>	<u>Government Technology Services, Inc.,</u>
<u>IBM</u>	<u>International Business Machines</u>
<u>IRMS</u>	<u>Information Resources Management Service</u>
<u>IRS</u>	<u>Internal Revenue Service</u>
<u>MAS</u>	<u>Multiple Award Schedule</u>
<u>NIH</u>	<u>National Institutes of Health</u>



# Data on Synopsizing of Federal Information Processing Procurements

This appendix contains tables showing the results of our analyses regarding the 36 synopsized Multiple Award Schedule (MAS) procurements of federal information processing items in our sample. Information is displayed by procurement office at the following sites: Defense Supply Service-Washington (DSS-W); the Internal Revenue Service's (IRS) National Office; the National Aeronautics and Space Administration's Langley Research Center (LRC); the National Institutes of Health's (NIH) Division of Procurement; the Naval Supply Center (NSC), Norfolk; and the Army Training and Doctrine Command Contracting Activity (TCA), Fort Eustis, Hampton, Virginia.

**Table I.1: Sample Orders Synopsized in Commerce Business Daily**

Site	Procurements over \$50,000				Procurements \$25,001-\$50,000			
	Number (percentage)				Number (percentage)			
	Synopsized	Not synopsized			Synopsized	Not synopsized		
DSS-W	3	(100)	0	(0)	0	(0)	14	(100)
IRS	14	(100)	0	(0)	0	(0)	16	(100)
LRC	1	(33)	2	(67)	4	(27)	11	(73)
NIH	4	(67)	2	(33)	0	(0)	6	(100)
NSC	2	(67)	1	(33)	2	(22)	7	(78)
TCA	1	(33)	2 <sup>a</sup>	(67)	5	(56)	4	(44)
<b>Total</b>	<b>25</b>	<b>(78)</b>	<b>7</b>	<b>(22)</b>	<b>11</b>	<b>(16)</b>	<b>58</b>	<b>(84)</b>

<sup>a</sup>The office justified not synopsizing these two orders because of "urgency" related to Operation Desert Shield.

**Table I.2: Synopsized Procurements With Unnecessarily Restrictive Product Descriptions Because of the Lack of Salients and Justifications for Other Than Full and Open Competition**

Site	Synopses	One manufacturer's product cited	No salients provided <sup>a</sup>	No salients or justification provided
DSS-W	3	3	3	0
IRS	14	14	12	5
LRC	5	5	5	5 <sup>b</sup>
NIH	4	4	1	1
NSC	4	4	3	2
TCA	6	6	3	0
<b>Total</b>	<b>36</b>	<b>36</b>	<b>27</b>	<b>13</b>

<sup>a</sup>As table I.3 indicates, the absence of salients in the Commerce Business Daily (CBD) did not preclude responses from some suppliers in some of these cases.

<sup>b</sup>For one of these cases, the requirements documentation included the salients, although the CBD notice did not.

**Appendix I**  
**Data on Synopsizing of Federal Information**  
**Processing Procurements**

**Table I.3: Contractor Responses to CBD Notices Other Than Responses From the Identified MAS Contractor**

Site	Synopses	No responses	One response <sup>a</sup>	More than one response <sup>a</sup>
DSS-W	3	2	1	0
IRS	14	7	1	6
LRC	5	4	1	0
NIH	4	3	0	1
NSC	4	3	1	0
TCA	6	5	0	1
<b>Total</b>	<b>36</b>	<b>24</b>	<b>4</b>	<b>8</b>

<sup>a</sup>Responses from the MAS contractor identified in the notice were excluded if such responses were limited to MAS contract data and information for the particular MAS items specified in the notice. Also, to be considered a "response," pricing information had to be provided.

**Table I.4: File Documentation of Synopsis Results**

Site	Files with no responses <sup>a</sup>			Files with responses <sup>a</sup>		
	Documented	Not documented	Total	Documented	Not documented	Total
DSS-W	0	2	2	1	0	1
IRS	6	1	7	5	2	7
LRC	0	4	4	1	0	1
NIH	2	1	3	1	0	1
NSC	0	3	3	1	0	1
TCA	1	4	5	0	1	1
<b>Total</b>	<b>9</b>	<b>15</b>	<b>24</b>	<b>9</b>	<b>3</b>	<b>12</b>

<sup>a</sup>See table I.3.

# Additional Information on Problems With Agencies' CBD Product Descriptions and Documentation

This appendix provides additional information on the results of our review, including deficiencies in CBD product descriptions, an example of a public notice that was unnecessarily restrictive of competition, and deficiencies in procurement offices' file documentation.

## Procurement Offices' CBD Product Descriptions Restricted Competition

Eight of the 13 notices we found to be unnecessarily restrictive of competition included a statement encouraging suppliers having "equal" or "equivalent" products to respond, but did not provide information regarding the essential features or characteristics of the brand name product that would satisfy the government's needs. General Services Administration officials stated that, in some cases, a notice providing only a brand name "or equal" description without listing the salients is adequate, as long as the description (1) permits consideration of a reasonable number of schedule contractors or other sources of supply and (2) does not contain restrictive provisions beyond those necessary to meet the government's minimum needs. According to these officials, this type of description is adequate for most of the items purchased under the Information Resources Management Service (IRMS) schedules to meet the "typical" government requirements because vendors of automated data processing equipment would generally know the salients of the brand name products and which other manufacturers' products to consider when making an offer.

However, in deciding a protest of an IRMS schedule order, the Comptroller General ruled that an agency that lists items of one manufacturer in the CBD without listing the salients required to meet the agency's needs does not satisfy the requirements of the Federal Information Resources Management Regulation (FIRMR).<sup>1</sup> In addition, the General Services Board of Contract Appeals terminated an order placed against an IRMS contract for microcomputers and other automated data processing equipment because the CBD synopsis failed to describe all the conditions and technical requirements of the procurement to meet the government's minimum needs. The Board rejected the agency's argument that prospective offerors would look at manufacturer brochures (prospective offerors were not informed that they should see the brochures) and, therefore, it was not necessary for the synopsis to describe all the conditions and technical

<sup>1</sup>Solbourne Computer, Inc. (B-237759, Mar. 23, 1990), 90-1 CPD para. 323.

requirements. The Board ordered the agency to obtain its requirements on a competitive basis.<sup>2</sup>

The CBD product descriptions in the 13 notices we found to be unnecessarily restrictive of competition varied with regard to the amount of detail provided. For example, several notices were for various types and configurations of workstations. Although the product descriptions were sketchy, a knowledgeable vendor may have been able to use publicly available information, such as vendors' catalogs or market information services, to arrive at a fairly complete picture of what the agencies were buying. However, the notices did not convey why the agencies intended to buy those particular manufacturers' systems—that is, what the agencies found to be essential in those particular systems and configurations. Without such information about the salients, it would be difficult for potential competitors to know if other manufacturers' products would be "equivalent" and identify and configure equivalent workstations to meet the agencies' needs.

Other notices described requirements for laser printers without listing the salients. As is the case today, at the time of these procurements there were many laser printers on the market. Without knowing the salients, however, potential competitors could not readily determine if other manufacturers' products could satisfy the agencies' needs. For example, whether another laser printer was equivalent to the Hewlett-Packard Laser Jet III depended on the characteristics by which equivalence was to be measured. If the salients were limited to speed (pages per minute), there were many printers that were just as fast or faster. If the salients included a requirement for compatibility with the Hewlett-Packard graphics language, then fewer printers would have been acceptable. If the salients included the Hewlett-Packard Laser Jet III's unique anti-aliasing capability, which markedly enhanced the quality of printed output, then this printer was probably the only one that could have met the agencies' needs.<sup>3</sup>

Other synopsis notices described proprietary products for which there were no equivalents or competitive alternatives, without including the salients; however, the procurement files did not include justifications for

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<sup>2</sup>Rocky Mountain Trading Company, Systems Division (GSBCA No. 10039-P, July 10, 1989), 89-3 BCA para. 22,086.

<sup>3</sup>In computer graphics, anti-aliasing refers to a category of techniques used to smooth the jagged appearance of diagonal lines.

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other than full and open competition demonstrating that the particular products were needed to meet the agencies' needs.

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### Example of a CBD Notice That Did Not Describe the Salients and Was Unnecessarily Restrictive of Competition

NIH placed a \$54,427 order against an IRMS schedule contract on September 27, 1990, with Government Technology Services, Inc. (GTSI) for federal information processing items to establish two local area networks. Prior to placing the order, NIH's Division of Procurement synopsisized the agency's requirement in the CBD, announcing its intent to place the order with GTSI. The synopsis notice listed 13 line items, by GTSI catalog number, of equipment NIH wanted to purchase. The notice said that 12 of the 13 line-items "shall be IBM [International Business Machines]" equipment and listed each of the IBM product numbers. Similarly, for the remaining item, the notice said that it "shall be 3Com" and listed the item by that manufacturer's product number.

However, the CBD notice did not provide the essential characteristics of the agency's minimum needs so that suppliers of other manufacturers' products could know what would be acceptable to the government. Further, the notice stated, "Concerns offering to furnish equivalent/equal equipment and accessories to the brand name listed above will be considered only if responding with clear and convincing documentation demonstrating their ability to meet all the requirements of this synopsis." The only respondent to the notice was GTSI.

The contract file did not contain a justification for other than full and open competition as called for by FAR 6.3; the requirement, therefore, was never approved to be conducted as a sole-source procurement. Moreover, the contract file did contain a document entitled "Justification" stating that both IBM and Compaq computers could be used in the local area networks "without fear of compatibility problems." The document also stated that those two manufacturers' products were the only ones that would give "absolute assurance" that the local area network applications would function properly. However, it appeared from the notice that NIH did not permit and would not consider responses offering Compaq equipment.

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## Procurement Offices Often Did Not Document Results of Synopsis or Selection Decisions

Contrary to FIRM requirements, many of the 36 synopsisized procurements lacked contract file documentation of the results of the CBD notice or an analysis showing that the delivery order had resulted in the lowest overall cost alternative meeting the government's needs.<sup>4</sup> However, documentation in 17 files did indicate that some suppliers were not considered because they only requested solicitation information or did not include the pricing information requested in the synopsis notice.

Files for 9 of the 24 procurements for which no other suppliers responded with pricing data for federal information processing items contained statements that no responses were received; the remaining 15 files did not. Nine of the 12 notices that generated one or more responses had procurement file documentation showing an analysis of the results of the synopsis; the remaining 3 did not. (See table I.4, app. I.) We did find documentation in some of the procurement files for rejecting price offerings from other suppliers. For example, two of the nine files that documented an analysis showed that some contractors' items were not technically acceptable.

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<sup>4</sup>FIRM requires that the analysis for synopsisized procurements that receive responses and result in orders placed with MAS contractors include information showing that (1) the responses did not meet the federal information processing requirements, (2) the MAS contract items identified in the synopsis notice provide the lowest overall cost alternative, or (3) an offer by a responding MAS contractor is the lowest overall cost alternative.

# Scope and Methodology

We interviewed and obtained information from officials at the General Services Administration headquarters offices in the Washington, D.C., area, and the six following agency procurement offices: the NIH's Division of Procurement, its Washington area headquarters procurement office; the IRS's National Office of Procurement Services, its Washington headquarters procurement office; the Defense Supply Service-Washington, a Department of Defense-wide procurement office; the National Aeronautics and Space Administration's Langley Research Center, Hampton, Virginia; the Naval Supply Center, Norfolk, Virginia; and the Army Training and Doctrine Command Contracting Activity, Fort Eustis, Hampton, Virginia. We also obtained information from representatives of selected federal information processing industry associations.

To determine compliance with statutory and regulatory requirements, we randomly selected 101 MAS procurements of federal information processing products and services valued at over \$25,000 that the six procurement offices placed between July 1, 1990, and November 16, 1990. We reviewed MAS delivery orders placed during this time period because (1) this was the latest period for which order data was available from the offices' computerized procurement data systems at the time we were planning and initiating this work and (2) the six offices as a group made more MAS procurements during this time period than during any other similar time period in fiscal year 1990. Of the 101 procurements, 32 were valued above \$50,000 and 69 were valued from \$25,001 to \$50,000.

We evaluated the procurement file documentation for each of the MAS orders sampled. In addition, where orders exceeded \$50,000 or the file showed evidence that the order may have been synopsized, we electronically searched the CBD data base to determine the existence of published CBD synopses.

Our review focused on MAS orders of federal information processing items from IRMS schedule contracts and did not include non-schedule contract awards. Therefore, we did not determine how often CBD synopses announcing an intent to purchase federal information processing resources from a MAS contractor resulted in solicitations and open-market awards. This report deals only with agencies' use of the schedules to place orders exceeding \$25,000 and does not address IRMS's negotiation and award of the contracts.

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